IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

FAO No. 9 of 2004

Date of Decision: 10.10.2007

Bachittar Singh & anr … Appellants

Versus

Sairo Devi & ors. … Respondents.

Coram:
The Hon'ble Mr. Justice Deepak Gupta, Judge.

Whether approved for reporting?

For the Appellant(s) : Mr. K.D.Sood, Advocate with Mr. Sanjiv Sood, Advocate.

For the Respondent(s) : Mr. Anuj Nag, Advocate vice Mr. Sanjay Jaswal, Advocate for Respondents 1to 10.

Ms. Madhu Sharma, Advocate vice Mr.Ashwani Kumar Sharma, Advocate for respondent No.11.

Deepak Gupta, J. (Oral).

This appeal by the owner and driver is directed against the award of the learned Motor Accident Claims Tribunal (I), Kangra at Dharamsala in Claim Petition No. 12-N/II-2000, whereby he has allowed the claim petition filed by the claimants and awarded Rs.60,000/- in their favour.

Briefly stated the facts as alleged by the claimants are that on 22.9.1999 at about 8 pm, deceased Sunder Ram was going to the house of his daughter Sairo Devi on foot along with his son Prakash Chand. It is further alleged that Mahindra Jeep No.HP 38-8305 came from Chamba side and hit Sunder Ram. The Jeep got stuck in a drain and the driver on seeing the injured ran away from the spot. FIR

was lodged and the Jeep was impounded by the police. The claim was resisted by the owner and driver on the ground that no accident had taken place. The learned Tribunal has relied upon the evidence of PW3 Prakash Chand son of Sunder Ram who was walking with his father and has clearly stated that Jeep No.HP38 – 8305 hit his father.

From the evidence on record it stands proved that the jeep got stuck in drain on the side of the road and it was impounded by the police. If the jeep was not involved in the accident, it would not have been impounded. Furthermore, it is also came in evidence that the driver of the jeep Tilak Raj was apprehended by the villagers soon-after the accident.

It is contended by Shri K.D.Sood, learned counsel for the appellant that the learned Tribunal has erred in not holding the Insurance Company liable to pay the compensation. In this behalf, the admitted case of the owner and the driver is that at the time when the accident took place, the driver did not have a valid driving licence. According to the driver, he was initially issued a licence from Amritsar which was renewed at Nurpur from 1991 to 1994 and then from 31.7.1996 to 30.7.1999. The accident took place on 22.9.1999 more than 30 days after the driving licence had expired. It is also admitted that the driving licence was not got renewed from 31.7.1999 to 2.1.2003.

This Court in **National Insurance Company v. Amar Chand and others,** 2006 ACJ 1831, has clearly held that the validity of driving licence can only be extended for a period of 30 days after its expiry and if it is not renewed within 30 days, it is not an effective licence.

Lastly, it is contended that the amount of compensation awarded is excessive. No doubt, the deceased was 75 years old. However, even no fault liability compensation of Rs. 50,000/- has to be paid. Even if a petition under Section 163-A had been filed, the total compensation payable would have been Rs.57,500/-. Only Rs.60,000/- has been awarded. This award cannot be said to be unreasonable.

In view of the aforesaid discussion, there is no merit in this appeal which is accordingly dismissed.

October 10, 2007. (Deepak Gupta), J.
s.